IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 184 OF 2005.

1. State of Goa, through its
Chief Secretary, Secretariat,
Panaji, Goa.

2. The Land Acquisition Officer, PWD (Cell),
Altinho, Panaji, Goa.

3. The Executive Engineer, WD – XV,
P.W.D., Ponda, Goa. .... Appellants.

Versus

1. Shri Prabhakar Govind Chari,
son of late Govind Chari,
major, music teacher, expired.

a. Shri Somnath Govind Chari,
Son of late Govind Chari,
Major, Businessman.

b. Shri Suresh Govind Chari,
Son of late Govind Chari,
Major, businessman.

c. Shri Vinaykumar Govind Chari,
son of late Govind Chari,
Major, Service.
All residing at House No. 76,
Behind Mahalaxmi Temple,
Ponda, Goa. .... Respondents.

Smt. W. Coutinho, Government Advocate for the Appellants.

Shri Sudin Usgaonkar, Advocate for the Respondents No.1(a), (b) and ©.

CORAM: R.M.S. KHANDEPARKAR, J.

DATE: 24th FEBRUARY, 2006.

ORAL JUDGMENT :

Heard the Advocates for the parties. Admit. By consent heard forthwith.

2. The appellants challenge the decree passed by the trial Court on 25th February, 2005 in Special Civil Suit No. 17/2001/A re-registered as Civil Suit No. 220/2004. By the impugned decree, the appellants have been directed to pay an amount of Rs.1,56,722/- with interest at the rate of 10% per annum with effect from 22nd October, 1996 till the date of actual payment of the entire amount. The amount of Rs. 1,56,722/- relates to the interest amount on the compensation which was payable to the respondents on account of acquisition of their property. The only ground on which the impugned decree is challenged is that the trial Court was not entitled to order payment of interest over the interest amount awarded in relation to the compensation payable under the Land Acquisition Act.

3. Few facts relevant for the decision are that on 15th March, 1992 L.A.O. passed an award for an amount of Rs.2,71,387/- on account of acquisition of an area of 5800 sq.m. situated in the taluka of Ponda. As a person claiming to be a tenant in respect of the acquired land sought to raise a dispute regarding the entitlement of his share in the compensation, the matter was referred to the Reference Court under S.30

of the Land Acquisition Act and in terms of the provisions of S.31 the entire amount was deposited in the Reference Court on 22nd October, 1996. The reference proceedings proceeded ex-parte on account of failure on the part of the tenant who had raised the dispute before the L.A.O. and the entire amount was awarded in favour of the respondents. Since the amount of Rs.2,71,387/- was invested in the Bank during the pendency of the proceedings in the Reference Court on 24th January, 2000, the deposited amount matured to the tune of Rs.4,11,301/- and the same was collected by the respondents. After acceptance of the said amount, the respondents filed a suit for recovery of interest in terms of Section 34 of the Land Acquisition Act at the rate of 9% per annum for the period from 22nd July, 1992 to 21st July, 1993 i.e. for the first year after passing of the award and at the rate of 15% per annum from 22nd July, 1993 till 22nd October, 1996 i.e. till the date of deposit of the amount. The said suit was contested by the appellants. However, the trial Court decreed the same by the impugned decree and while ordering payment of interest amount to the tune of Rs.1,56,722/- for the period from 22nd July, 1992 to 22nd October, 1996, also directed the payment of further interest of 10% on the said total amount payable by the appellants to the respondents.

4. The impugned decree is challenged on two grounds:- Firstly,

that the suit in respect of the claim of interest was barred by limitation, and secondly that the trial Court could not have ordered payment of interest on interest.

5. Upon hearing the learned Advocates for the parties and on perusal of the record, therefore, two points arise for consideration, viz :- (i) Whether the suit was barred by limitation? and (ii) Whether the trial Court could have awarded interest at the rate of 10% on the amount of Rs.1,56,722/- which corresponds to the interest amount for the period from 22nd July, 1992 to 22nd October, 1996 on the compensation awarded under the Award passed by the L.A.O. ?

6. As regards the point of limitation, it is to be noted that the interest which has been claimed was in relation to the compensation which was awarded under the Land Acquisition Act. Undisputedly, compensation amount was deposited in terms of the provisions of Section 31 of the Land Acquisition Act in the Reference Court on 1.10.96 consequent to the objections raised regarding share in the compensation of the alleged tenant of the property. Section 34 requires payment of interest at the rate of 9% p.a. for the first year from the date of taking over of possession and thereafter at the rate of 15% p.a. till the date of payment of entire amount. Undisputedly the possession of the acquired land was taken on 22.7.1992

itself. Yet no interest amount was deposited. The matter proceeded before the Reference Court from 1996 to 24th January, 2000. It is only on 24th January, 2000 that the entire amount awarded by the Land Acquisition Officer under Section 11 was ordered to be payable in favour of the respondents. Being so, the claim of the respondents for the compensation for the acquired land continued to subsist till 24th January, 2000 as till that date they were not entitled to collect the said amount unless there was final adjudication in terms of the provisions law comprised under the Land Acquisition Act, particularly under S.30 thereof. The said adjudication concluded on 24th January, 2000 and therefore the right to claim interest in favour of the respondent was subsisting till 24th January, 2000. Undisputedly the suit was filed on 4th May, 2001 within a period of three years from 24th January, 2000. Being so, there is absolutely no substance in the contention of the appellants about bar of limitation.

7. As regards the point of interest on interest, undisputedly, the amount was deposited by the appellants on 22nd October, 1996 to the tune of Rs.2,71,387/-. It is not in dispute that the amount which was deposited on 22nd October, 1996 was the amount payable as compensation awarded in terms of award passed under S. 11 of the Land Acquisition Act. It is also not in dispute that no interest amount for the period from 22nd July, 1992 till 22nd October, 1996 was deposited in the Reference Court while

depositing the principal amount on 22nd October, 1996. Further it is also not in dispute that possession was taken pursuant to the award on 22nd July, 1992. Obviously therefore the provisions of S.34 of the Land Acquisition Act were applicable and for the first year the interest amount payable was at the rate of 9% p.a. and thereafter at the rate of 15% p.a. till the date of payment of the entire amount. Once the amount was deposited by the appellants in the Reference Court, obviously the liability of the appellants to pay interest on the principal amount would cease. Being so, the appellants would not be liable to pay any interest on the principal amount which was deposited in the Reference Court on 22nd October, 1996 from 23rd October, 1996 onwards. However, since the interest which had already accrued on the said amount on the said day i.e. on 22nd October, 1996, and the same was not deposited in Court along with the principal amount by the appellants, the appellants cannot avoid the liability to pay interest on the said interest. It is needless to say that if the amount was deposited in the Reference Court on 22nd October, 1996, it would have been invested in the Bank along with the principal amount and that would have been subject to accrual of further interest on the said interest amount. Besides the amount which was lawfully payable by the appellants on account of retention of the principal amount from 22nd July, 1992 till 22nd October, 1996, was unauthorisedly retained by the appellants to corresponding loss to the respondents. Being so, no

fault can be found with the trial Court ordering further interest on the said interest amount from 22nd October, 1996 till the date of the entire amount payable to the respondents.

8. However the appellants are justified in contending that the trial Court erred in ordering the said interest at the rate of 10% per annum. Even though in the year 1996 the interest awarded by the Bank was 10% or so, on fixed deposits, that itself would not be justification to award 10% interest for all the years till the date of payment. Undisputedly at present the interest rate paid by the Banks is around 6 to 7% per annum on fixed deposits. Being so, it would be appropriate to award interest at the rate of 7% per annum from 22nd October, 1996 till the date of payment of the entire amount. For the reasons stated above, therefore, apart from modification of the impugned decree in relation to the rate of interest from 10% to 7% no further interference is warranted in the impugned judgment and decree.

9. In the result, therefore, the appeal partly succeeds. The impugned Judgment and Decree is modified to the extent that the interest payable on the amount of Rs. 1,56,722/- with effect from 22nd October, 1996 till the date the entire amount is paid to the respondents, is modified from

10% to 7%. Apart from the said modification, the impugned judgment and decree warrants no interference. There shall be no order as to costs.

10. At the request of the learned Government Advocate, time to deposit the decretal amount is extended by four weeks from today.

R.M.S. KHANDEPARKAR, J.

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